

## HOUSE BILL No. 1540

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-9-40.

**Synopsis:** Tippecanoe County food and beverage tax. Authorizes Tippecanoe County to impose a food and beverage tax. Provides that revenues derived from the tax must be used to promote cultural activities within the county and to promote the development of the Wabash River corridor within the county.

**Effective:** July 1, 2007.

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**Brown T, Klinker**

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January 23, 2007, read first time and referred to Committee on Rules and Legislative Procedures.

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First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## HOUSE BILL No. 1540

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A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 6-9-40 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2007]:

4 **Chapter 40. Tippecanoe County Food and Beverage Tax**

5 **Sec. 1. This chapter applies to a county having a population of**  
6 **more than one hundred forty-eight thousand (148,000) but less**  
7 **than one hundred seventy thousand (170,000).**

8 **Sec. 2. The definitions in IC 6-9-12-1 apply throughout this**  
9 **chapter.**

10 **Sec. 3. (a) The fiscal body of the county may adopt an ordinance**  
11 **to impose an excise tax, known as the county food and beverage**  
12 **tax, on those transactions described in section 4 of this chapter.**

13 **(b) If the fiscal body adopts an ordinance under subsection (a),**  
14 **it shall immediately send a certified copy of the ordinance to the**  
15 **commissioner of the department of state revenue.**

16 **(c) If the fiscal body adopts an ordinance under subsection (a),**  
17 **the county food and beverage tax applies to transactions that occur**



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after the last day of the month that succeeds the month in which the ordinance was adopted.

Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to any transaction in which food or beverage is furnished, prepared, or served:

- (1) for consumption at a location, or on equipment, provided by a retail merchant;
- (2) in the county in which the tax is imposed; and
- (3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include, but are not limited to, transactions in which:

- (1) food or beverage is served by a retail merchant off the merchant's premises;
- (2) food is sold in a heated state or heated by a retail merchant;
- (3) the food consists of two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or
- (4) food is sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

(c) The county food and beverage tax does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 5. The county food and beverage tax imposed on a food or beverage transaction described in section 4 of this chapter equals one percent (1%) of the gross retail income received by the merchant from the transaction. For purposes of this chapter, the gross retail income received by the retail merchant from the transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

Sec. 6. The tax that may be imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5.

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1 However, the return to be filed for the payment of the taxes may be  
 2 made on separate returns or combined with the return filed for the  
 3 payment of the state gross retail tax, as prescribed by the  
 4 department of state revenue.

5 Sec. 7. The amounts received from the county food and beverage  
 6 tax imposed under this chapter shall be paid monthly by the  
 7 treasurer of state to the county treasurer upon warrants issued by  
 8 the auditor of state.

9 Sec. 8. (a) If a tax is imposed under section 3 of this chapter, the  
 10 county treasurer shall establish a food and beverage tax receipts  
 11 fund.

12 (b) The county treasurer shall deposit in this fund all amounts  
 13 received under this chapter.

14 (c) Any money earned from the investment of money in the fund  
 15 becomes a part of the fund.

16 (d) Money in the fund must be appropriated and expended for  
 17 the purposes authorized by section 10 of this chapter.

18 Sec. 9. Revenue derived from a tax imposed under this chapter  
 19 may be treated by the county as additional revenue for the purpose  
 20 of fixing its budget for the budget year during which the revenues  
 21 are to be distributed to the county.

22 Sec. 10. Revenues derived from a tax imposed under this  
 23 chapter must be used for the following purposes:

24 (1) To promote cultural activities within the county.

25 (2) To promote the development of the Wabash River  
 26 corridor within the county.

27 Sec. 11. A county described in section 1 of this chapter possesses  
 28 unique economic development challenges. Maintaining low  
 29 property tax rates is essential to economic development. The use of  
 30 food and beverage tax revenues as provided in this chapter, rather  
 31 than use of property taxes, to support the economic and cultural  
 32 development initiatives described in section 10 of this chapter  
 33 promotes that purpose.

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